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UNCLAS SECTION 01 OF 04 SANTO DOMINGO 004415

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SUBJECT: DOMINICAN REPUBLIC: UPDATE ON CHILD LABOR
INFORMATION

REF: SECSTATE 193266

1. The GODR is making progress in implementing its international commitments to eliminate the worst forms of child labor. Updated information for 2003 Trade and Development Act (TDA) reporting purposes follows.

BEGIN ANSWERS TO REFTEL QUESTIONS.

A) Whether the country has adequate laws and regulations proscribing the worst forms of child labor?

2. The Government of the Dominican Republic (GODR) ratified International Labor Organization (ILO) Convention No. 182 on December 15, 2000 and ILO Convention No. 138 on June 15, 1999. Dominican laws addressing child labor issues include El Codigo de Trabajo de la Republica Dominicana (law 16-92 of May 29, 1992) and law 136-03, Codigo para la Proteccion de Ninos, Ninas y Adolescentes which was recently promulgated by President Mejia on August 7, 2003. (Copy of law to follow via pouch.) The 2003 Minors' Code replaces the previous 1994 version (law 14-94) and conforms better to international conventions on child labor issues. Like the 1992 Dominican Labor Code, the 2003 Minors' Code prohibits employment of children under the age of 14. Unlike the 1992 Dominican Labor Code, the 2003 Minors' Code includes language regulating apprenticeships for adolescents.

3. As mentioned in previous reports, the Ministry of Labor Resolution No. 03-93 of January 12, 1993 defines hazardous work as dangerous or unhealthy, which through the nature of its execution or the environment in which it is realized, or the tools or machines which it employs, may occasion injuries to the physical integrity of minors or promote etiological factors in the outbreak of illnesses. Neither the labor code nor the minor's code specifically defines what occupations are considered the worst forms of child labor. However, there are governmental programs that target industrial areas in which child labor has been a historical problem.

4. The 2003 Minors' Code promotes an inter-institutional coordinated system of various government agencies and NGOs to protect the human rights of minors, including protection from child labor. The modified code also recognizes a not-for-profit institution CONANI (El Consejo Nacional de la Ninez y la Adolescencia) as the non-cabinet, decentralized public ministry that will be responsible for coordinating public policy regarding children's issues and ensuring implementation of the new law. (Note: CONANI is an organization currently headed by the President's sister, who is a long-time activist for children. Although the new Minors' Code is the result of inter-institutional cooperation, having CONANI provide the impetus for child labor law modifications is a departure from the norm, i.e. the Ministry of Labor would be expected to spearhead modifications of any labor-related laws. However, the Ministry of Labor remains a committed and supportive institution of all GODR efforts to eliminate the worst forms of child labor and is still the focal point to execute GODR anti-child labor programs. End Note)

B) Whether the country has adequate laws and regulations for the implementation and enforcement of proscriptions against the worst forms of child labor?

5. The legal remedy to combat child labor is mostly through impositions of fines. Article 720 of the Dominican Labor Code explains the penalties imposed for all labor violations and outlines a graduated scale of penalties. Child labor violations fall at the most severe end of the scale providing for the most costly fines. The fine for violating work age requirements ranges from seven to twelve times the minimum wage per underage employee. Current monthly minimum wage, referred to locally as salarios minimos, is RD\$3,890 (approximately US\$122) outside free zones and RD\$2,815 (approximately US\$88) inside free zones. Jail sentences can be imposed for the most serious violations of the labor code. The National Police and Attorney General's Office usually get involved in more egregious cases involving potential criminal penalties.

16. As mentioned in previous reports, universal education is required and obligatory through primary school. However, there are currently no legal mechanisms to induce parents or guardians to send children to school after this point. According to education rights NGO Educa, 26 out of every 100 students that complete primary school finish middle school; 16% of Dominican children 6-15 years of age never even see a classroom.

C) Whether the country has established formal institutional mechanisms to investigate and address complaints relating to the worst forms of child labor?

17. As a result of the newly signed Minor,s Code, CONANI will now assist the Ministry of Labor in implementing child labor laws and regulations (see paragraph 4). The Ministry of Labor assigns labor inspectors, more than 200 total, to each of the 31 provinces and the National District (which covers Santo Domingo). Ironically, the three provinces where the GODR targets its most intensive programs to eradicate child labor (Azua, Constanza and San Jose de Ocoa) are where inspectors are few in number--two two, and one, respectively.

Child labor inspections are not distinct from monthly, general labor inspections. As such, no separate budget is specifically allocated for investigating exploitative child labor cases. The Ministry of Labor keeps broad labor inspections statistics on its website. In the province of Azua, for example, there were twelve labor inspections in June 2003 in which six were found to involve child labor and two resulted in fines. Child labor, especially in the poorest and most marginalized Dominican communities, is socially accepted as a means of economic survival rather than an abuse of a child,s human rights. Thus, it is not common practice to submit complaints against an &industry8 for violating child labor laws.

D) Whether social programs have been implemented to prevent the engagement of children in the worst forms of child labor, and to assist in removing children engaged in the worst forms of child labor?

18. The Ministry of Labor, in collaboration with ILO-IPEC and other labor rights organizations, has implemented very successful programs to combat child labor. The programs target children who perform dangerous agricultural work in the provinces of San Jose de Ocoa, Constanza and Azua.

19. In the tomato-producing province of Azua where 75% of the population is poor, the mechanism to employ child laborers is informal. The tomato industries neither recruit nor directly employ child workers--independent tomato producers do. To address this problem, ILO-IPEC with Ministry of Labor support launched a child labor eradication program in September 2002 that includes 48 &salas de tareas8 or study halls among seven different schools. The salas de tareas target at-risk children (likely to work in tomato fields) who often come from third homes. It is estimated that the project has already prevented 3,000 children from working. The Ministry of Labor also provides workshops for educators about the prevention and eradication of child labor in Azua and other troubled areas. Another portion of the program includes sensitization classes for parents of at-risk children. These classes are administered by Habitat-Azua with support from ILO, the Ministry of Labor and Ministry of Education.

110. The Ministry of Education and the Consejo Nacional en contra del Trabajo Infantil (National Directive Committee Against Child Labor) continue to share the fundamental task of removing children from the labor market and ensuring that they attend school. An example of this collaboration is the &School Card Program,8 which gives RD\$300 pesos (US\$10) monthly to marginalized mothers who keep their children out of work and in school. In addition, the Ministry of Education provides free school breakfast in every school countrywide to help promote school attendance. The Education Ministry district office in Azua is planning to team up with ILO-IPEC and the Labor Ministry to develop a capacity-building program (within the currently established salas de tareas framework) that specifically targets seventh and eighth graders (13- and 14-year-olds) who are at risk for dropping out of school to work. The Ministry of Education office in Azua is also working to develop community parents' councils to denounce child labor.

111. Commercial sexual exploitation of minors is an aspect of child labor in the Dominican Republic. ILO, in collaboration with local NGO Idefa (Instituto de la Familia), plans to launch a program in September 2003 in the popular sex-tourism destination of Boca Chica (The Tourism Police, Politur, has done raids on commercial sexual rings in this area). It is expected that more GODR funds will be allocated for future programs that seek to reduce sexual exploitation of minors, especially given the new comprehensive Anti-Trafficking in Persons Law that was signed August 7, 2003.

E) Whether the country has a comprehensive policy aimed at

the elimination of the worst forms of child labor?

12. The GODR has a national policy that addresses child labor. This policy was initially spearheaded by the National Directive Committee Against Child Labor, which includes representatives from the Ministries of Labor, Education, Foreign Affairs, and Public Health, as well as the National Police and Attorney General's office, among others. There is also a National Plan to Guarantee the Rights of Children and Adolescents that President Mejia signed as an executive order in April 2001, when he declared the protection of children and adolescents a national priority. Three primary objectives of the National Plan are to promote birth registration, prevent sexual abuse and exploitation of minors, and to assist youth who commit crimes. Within the framework of the National Plan objectives, a special inter-institutional commission was created against the abuse and sexual exploitation of minors. The 2001 executive order also established another inter-institutional commission to review and modify the original Minors' Code, Law 14-94. In August 2002, CONANI assumed leadership of this second commission to reinvigorate the process of modifying the Minors' Code, which ultimately resulted in the recent passage of the new Minors' Code, Law 136-03 (see paragraph 4).

F) Whether the country is making continual progress toward eliminating the worst forms of child labor?

13. The GODR continues to make progress in eliminating the worst forms of child labor in the formal sector. On September 9, 2003 the GODR, in cooperation with ILO, will launch the Time-Bound Program that will be funded by USDOL. This program will raise awareness and capacity building for policy implementation of child labor protections, as well as develop action programs to target the worst forms of child labor. It is estimated that 2,600 children will directly benefit from the program. The GODR hopes to reduce child labor by 25% by 2007.

14. In spite of GODR progress to eliminate the worst forms of child labor, most forced child labor in the Dominican Republic is not formalized, in the sense that it is uncommon to find children working in sweatshops analogous to the conditions that may exist in other countries. Informal child labor persists in prostitution, family-owned businesses such as small mechanic shops, and other clandestine operations.

15. According to the results of the Ministry of Labor's 2000 National Child Labor Survey, 482,720 Dominican children between the ages of 5 and 17 work, at least informally (total estimated population for this age group is 2.4 million). Of the 428,720 children that work, 56.2% are less than 14 years old; 21.1% are between 14 and 15, and the remaining 22.7% are adolescents 16 or older. Curiously, 89.7% of those that work also attend school, and only 10.3% of working children do not attend school.

16. In areas of high-level unemployment, families often feel pressured to encourage their children to earn supplemental income to put food on the table. Homeless children, especially in urban areas, are frequently at the mercy of adults who collect them and put them to work begging or selling meager goods on the street. In return for their work they are given basic housing. The ages at which these children work, the hours they work, and their failure to comply with compulsory school attendance all violate the law.

17. The Government has attempted to eliminate the use of children for cutting sugar cane. However, it is not uncommon to see poor Haitian and Dominican children working in the cane fields (locally referred to as bateyes) of San Pedro de Macoris, for example, with the tacit acceptance of sugar companies. Many undocumented Haitian boys as young as 9 years old plant sugar, while 14- and 15-year olds have been spotted cutting sugar cane. The Ministry of Education maintains that it promotes education for all, regardless of nationality, and that birth registration problems persist not only for Haitians but for Dominican children as well. (Note: Children can attend school without proof of birth until they reach the eighth grade. At the eighth grade level, which is normally reached at age 13 or 14, a birth certificate is required to attend. However, obtaining a birth certificate in the DR can be a lengthy, complicated process; birth certificates are not administered at the hospital immediately after a child is born but by a local registrar (or Justice of the Peace). End Note)

END QUESTIONS AND ANSWERS.

18. COMMENT: The root of child labor problems in the Dominican Republic, as in most countries where child labor exists, is poverty. Since the last report was submitted, the exchange rate to the dollar has doubled, from approximately RD\$18 to the dollar to a high of RD\$36 to the dollar in July 2003. A worsening economy will surely make the GODR's continued efforts to eliminate the worst forms of child labor

more difficult. One of the challenges the GODR faces is the fact that there are several committees and commissions currently involved in addressing children,s rights and labor, but no specific policy to address child labor issues alone. The Ministry of Labor would be well served to continue improving its record-keeping capabilities of child labor violations and sentences, as well as assign more inspectors to at-risk areas for child labor. The National Directive Committee on Child Labor should also work harder to posit itself to publicly and actively lead the charge against child labor.

HERTELL